

ESTTA Tracking number: **ESTTA1181719**

Filing date: **12/29/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91273569
Party	Defendant WRB, Inc.
Correspondence address	WRB, INC. 5865 NEAL AVE N / #113 STILLWATER, MN 55082 UNITED STATES Primary email: trademark@hammerschlagen.com 844-942-2548
Submission	Motion to Suspend for Civil Action
Filer's name	James Martin
Filer's email	trademark@hammerschlagen.com
Signature	/James Martin/
Date	12/29/2021
Attachments	Motion to Suspend.pdf(88017 bytes ) Exhibits.pdf(2908492 bytes )

**UNITED STATES DISTRICT PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of:

Application Serial No. **90453221**  
For The Mark **Hammer-Schlagen**

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**DAMM, LLC,**

Opposer,

v.

**WRB, Inc.,**

Applicant.

Opposition Number **91273569**

**Petitioner's Motion to Suspend  
Proceedings Pending Disposition Of  
Civil Action**

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Pursuant to 37 C.F.R. § 2.117(a) and TBMP § 510.02(a), Petitioner WRB, Inc. ("Petitioner") hereby moves the Board to suspend the above-referenced proceeding (this "TTAB Proceeding") pending final disposition of federal district court case *WRB, Inc. V. Damm, LLC, et al.*, No. 0:21-CV-01899-NEB-TNL (the "Federal Proceeding"), filed August 23, 2021, in federal district court for the District of Minnesota (Third Division, Saint Paul). True and correct copies of the Complaint, civil cover sheet, and Answer from this action are attached hereto as **Exhibit I**.

**ARGUMENT AND CITATION TO AUTHORITY**

The counterclaims made in the Answer of the Federal Proceeding seeks, *inter alia*, the same substantive relief sought in this TTAB Proceeding, namely, a judgment that Applicant's registration for the mark at issue (Application Serial No. 90453221) in this TTAB Proceeding be denied. Moreover, the Complaint and Answer both seek additional relief under the Lanham Act and other laws with respect to: Opposer's trademark and trade dress infringement, unfair competition, false designation of origin, violations of the Anticybersquatting Consumer Protection Act, and related federal and state law claims

based on the Hammer-Schlagen family of intellectual property owned by Applicant to which the trademark at issue in this TTAB Proceeding belongs; and Opposer's counterclaims alleging fraud and its desire for Applicant's trademark registrations to be canceled.

Given that the parties were involved in the Federal Proceeding concerning the same marks and issues involved prior to the commencement of this TTAB Proceeding, the "standard procedure" of the Board is to suspend its administrative proceeding pending outcome of the civil litigation. *New Orleans Louisiana Saints LLC et al. v. Who Dat? Inc.*, 99 U.S.P.Q.2d 1550, 1552 (T.T.A.B. 2011) (quoting *6 McCarthy on Trademarks and Unfair Competition* § 32:47 (5<sup>th</sup> ed. updated September 2017)).

Generally, a civil action need not even be dispositive of a Board proceeding to warrant suspension. Rather, it is sufficient that the civil action have bearing on the issues before the Board to justify a suspension. *Id.* Here, the Federal Proceeding would, in fact, be dispositive of the matter before the Board, and it involves the same parties and marks subject to this TTAB Proceeding, as well as the same nucleus of operative facts, as a plain reading of the Complaint and Answer demonstrates.

Moreover, the pending Federal Proceeding involves other parties and matters outside Board jurisdiction (including related issues of damages and injunctive relief) and involves the consideration of broader issues beyond right to registration of the mark for which application was made. Therefore, pursuant to TBMP § 510.02(a), judicial economy is served by the requested suspension. *Accord The Other Tel. Co. V. Connecticut Nat'l Tel. Co.*, 181 U.S.P.Q. (BNA) ¶ 125 (T.T.A.B. Feb. 11, 1974).

Additionally, the parties are currently engaged in discovery both in this TTAB Proceeding as well as in the Federal Proceeding, but minimal written discovery has taken place as the parties were previously attempting to settle their dispute with some documents having already been produced by both parties in the Federal Proceeding. No depositions

have occurred or been noticed in the Federal Proceeding. And, fact discovery in the Federal Proceeding is set to close on September 1, 2022. Because the Federal Proceeding involves not only the issues currently before the Board, but also issues of trademark and trade dress infringement, unfair competition, false designation of origin, violations of the Anticybersquatting Consumer Protection Act, and related federal and state law claims, discovery in the Federal Proceeding will involve documents, depositions, and other information that is not being and will not be gathered or produced in this TTAB Proceeding. Thus, suspending the TTAB Proceeding, including as to all outstanding written discovery requests and deadlines would avoid wasted time and expenses for both parties and the Board. See, e.g., *Softbelly's Inc v. Ty, Inc.*, 2002 WL 1844210, \*3 (T.T.A.B. Aug. 13, 2002) (citing *The Other Tel.*, 181 U.S.P.Q. (BNA) ¶ 125) ("It would be a waste of the Board's and the parties' time and resources to proceed to litigate this case at the Board when the same issues" are pending in federal court.)

### CONCLUSION

For these reasons, Petitioner submits that an order from the Board immediately suspending the TTAB Proceeding, including all outstanding answer, discovery requests, and scheduled deadlines, is warranted. Petitioner respectfully requests that its motion be duly granted.

Dated: December 29, 2021

Respectfully Submitted,

WRB, INC.

/s/ James Martin

By its CEO, James Martin

5865 Neal Ave N / #113

Stillwater, MN 55082

(844) WHACK-IT

trademark@hammerschlagen.com

*Applicant*

## **CERTIFICATE OF SERVICE**

I hereby certify that, on December 29, 2021, a copy of the foregoing motion was sent via e-mail to Opposer's counsel of record, as follows:

Paul Dietz  
DIETZ LAW OFFICE LLC  
4975 Wilderness Lake Cir  
Elko New Market, MN 55020  
paul@dietzlawoffice.com

/s/ James Martin  
WRB, Inc.  
By its CEO, James Martin

# EXHIBIT I

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

WRB, Inc.

(b) County of Residence of First Listed Plaintiff Washington  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael Frasier, Rubric Legal LLC, 111 Third Ave S, Ste  
110, Minneapolis MN 55401 (612) 465-0074

DEFENDANTS

DAMM, LLC, Michael Nicholas, Danielle Nicholas, Matthew  
Damm and Allison Damm

County of Residence of First Listed Defendant Hennepin  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input checked="" type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 1114

Brief description of cause:

Trademark and trade dress infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
500,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

Michael Frasier

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.



UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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WRB, Inc. d/b/a Hammer-Schlagen,

Plaintiff,

Court File No. 21-1899

v.

DAMM, LLC, (d/b/a Minneschlagen)  
Michael Nicholas, Danielle Nicholas,  
Matthew Reck, and Allison Reck  
Defendants.

**Complaint for Trademark, Trade  
Dress Infringement, Unfair  
Competition, and Cybersquatting**

**Jury Trial Demanded**

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Plaintiff WRB, Inc. d/b/a Hammer-Schlagen for its complaint against defendants DAMM, LLC, Michael Nicholas, Danielle Nicholas, Matthew Reck, and Allison Reck, states and alleges as follows:

**NATURE OF THE ACTION**

1. This is an action that seeks a permanent injunction and an award of actual or statutory damages for defendants' intentional counterfeiting of the Hammer-Schlagen brand comprised of distinctive trademarks and trade dress.

2. WRB and its predecessors have been the exclusive source of a particular nail-driving competition offered under the brand Hammer-Schlagen since at least the late 1980s. WRB's trademarks, including Hammer-Schlagen, its logo, and slogans such as Let's Play Hammer-Schlagen, Got Wood, Get

Hammered, Get Nailed, Get Bent, and Whack It, have become immensely popular throughout the United States, particularly at beer festivals, bars, and Oktoberfests.

3. WRB's design and layout of its nail-driving game are also unique and were granted trade dress protection by the U.S. Patent and Trademark Office.

4. DAMM – a limited liability company in Plymouth, MN – sells a game indistinguishable from WRB's Hammerschlagen Stump under the trade name Minneschlagen and offers the game as a service at events around Minnesota.

5. This action is to protect WRB's goodwill and intellectual property by enforcing WRB's rights under the Lanham Act.

### **PARTIES**

6. WRB, Inc. d/b/a Hammer-Schlagen is a Minnesota corporation with its registered office at 5865 Neal Ave N, #113 in Stillwater, Minnesota.

7. Defendant DAMM, LLC is a Minnesota limited liability company with its registered office at 3940 Niagara Lane North in Plymouth, Minnesota.

8. Defendants Michael and Danielle Nicholas are natural persons and a married couple residing in Minnesota. Defendants Matthew and Allison Reck are

natural persons and a married couple residing in Minnesota. On information and belief, these four natural persons jointly own and operate DAMM and are responsible for the company's marketing and advertising.

9. On information and belief, the individual Defendants oversee and are responsible for the actions of DAMM described below.

### **JURISDICTION**

10. This Court has original subject matter jurisdiction over the trade dress infringement and trademark infringement claims pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a) because they arise under the Lanham Act, 15 U.S.C. § 1501 et seq.

11. This Court has supplemental jurisdiction over Plaintiff's claims arising under state law under 28 U.S.C. § 1367, as those claims form part of the same case or controversy.

12. DAMM is a Minnesota limited liability company offering its products in Plymouth, Minnesota. WRB's claims for relief arose in this district, making venue over the claims proper in this district pursuant to 28 U.S.C. § 1391.

### **WHAT IS HAMMERSCHLAGEN?**

13. In 1957, a child named Carl Schoene immigrated with his family from Germany to St. Paul, Minnesota. He brought with him a game he played

with his friends in Germany in which players took turns trying to drive a nail into something – a board, a tire, or the ground – with one swing of an axe.

14. The variation Schoene played and taught his friends used a cross-peen hammer, and the nails were driven into the perimeter of a tree stump. Schoene called his version of the game Nagelspiel.

15. When his family started a restaurant near Stillwater, Schoene's game was played at the restaurant and at festivals as a marketing tool for the restaurant.

16. In the late 1980s, Schoene's father-in-law, Mike Wlaschin, took over the game. He standardized the use of cottonwood cross-sections and 16d common bright nails and rebranded the name as "Hammer-Schlagen."

17. From the late 1980s through 1999, Wlaschin promoted the service under the brand Hammer-Schlagen throughout Minnesota and Western Wisconsin. He was the only person using the name Hammer-Schlagen and the only person marketing the entertainment service using his particular design.

18. In 1999, Wlaschin formed WRB, Inc. solely for the purpose of marketing and promoting Hammer-Schlagen. The company acquired a federal trademark registration for its logo in 2000:



19. WRB has continuously and exclusively promoted its services under the Hammer-Schlagen brand since it was formed.

20. In addition to providing the service, WRB sold the HammerSchlagen Stump continuously since 1999. From its founding until 2020, it sold the Stump to its licensees who used the Stump to offer Hammer-Schlagen as a service. It also intermittently sold Stumps to consumers during the same time period.

21. In April 2020, WRB began selling a “Hammer-Schlagen Kit” through an exclusive licensor, Stump’d, LLC. The Hammer-Schlagen Kit contains nearly everything one needs to play Hammer-Schlagen – a stand, the cross-section of a stump, a hammer, and all the necessary nuts and bolts. Simply assemble it, purchase nails, and one can play Hammer-Schlagen with the product.

22. WRB promoted and continues to promote its services through the exclusive use of slogans including “Get Hammered,” “Get Nailed,” and “Got

Wood” in a variety of media since 2000, including on its website, in fliers, and on stickers used in marketing its service.

23. WRB uses its distinctive trade dress in combination with its name, logo, and slogans to promote the service offered. The trade dress, commonly referred to as the “Hammerschlagen Stump,” is depicted below:



24. WRB has offered its services, either directly or through exclusive licensing, throughout the United States, from Florida to Washington to Hawaii.

25. WRB has operated in Minnesota every year since its founding in 1999, offering the game at various private parties, beer festivals, Oktoberfest branded events, and expos throughout the state.

26. WRB owns U.S. Registration No. 5,548,112 for its trade dress as depicted above. It was registered on August 28, 2018. The registration describes WRB’s trade dress as follows:

The mark consists of a three-dimensional configuration constituting trade dress comprising of a cylindrical cross-section of a tree with nails positioned around the outer circumference of its upward facing flat circular surface, and a cross-peen hammer whose head is shaped in the manner depicted in the drawing.

27. WRB's trade dress registration also claims first use of the trade dress in commerce as early as February 1999. A copy of the trade dress registration is attached as Exhibit A.

28. WRB is the owner of U.S. Registration No. 4,804,117 for the service mark Hammer-Schlagen. The service mark was registered on September 1, 2015, claiming first use in commerce as early as February 1999 and is incontestable. A copy of the registration is attached as Exhibit B.

### THE INFRINGEMENT

29. DAMM's four founders claim to have been looking for the "next BIG idea." They settled on manufacturing and selling a nail-driving game.

30. Of all the designs they could have chosen, the four chose one indistinguishable from the Hammerschlagen Stump:

WRB's Hammerschlagen Stump:	DAMM's game:
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31. The four formed DAMM LLC on April 24, 2020 to sell the counterfeit product.

32. They could have chosen any brand to sell their counterfeit product. But the four chose Minneschlagen – an obvious derivation of Hammer-Schlagen.

33. DAMM acquired the assumed name Minneschlagen on May 29, 2020.

34. DAMM obtained a trademark registration with the USPTO for the mark “MINNESCHLAGEN” for “Equipment sold as a unit for playing action skill games involving a stump, nail and hammer; Party games” having registration number 6,230,202.

35. The mark is confusingly similar to WRB's Hammer-Schlagen trademark.



36. DAMM advertises its goods online at <minneschlagen.com> and by way of third-party markets, such as on Etsy.com, for \$125.00.

37. DAMM's domain name is confusingly similar to WRB's distinctive mark Hammer-Schlagen.

38. DAMM selected and registered the domain name with a bad faith intent to profit from WRB's mark.

39. Almost immediately after DAMM began selling its Minneschlagen product, consumers began exhibiting confusion between it and WRB's product and service.

40. In June 2020, Tyler Winkey promoted DAMM's product on Facebook, stating "My sister-in-law and her husband just started this company called Minneschlagen – portable hammerschlagen set!"



41. In July 2020, Sunset Cove Resort posted a picture of DAMM's product to its social media pages, calling it "Our custom hammerschlagen game set!" Defendant Danielle Nicholas, on behalf of DAMM, responded to the post, writing "we hope you (and everyone else) has a blast playing!"



42. In August 2020, Facebook user campbell.party.of.five posted a picture of DAMM's product while using the hashtag #hammerschlagen. DAMM responded to the post, saying "Thank YOU! We hope it was a real HIT!"

43. In December, lilmissmiles posted a picture of DAMM's product, tagging Minneschlagen, and using #hammerschlagen.

44. In January 2021, dought1 posted a picture of DAMM's product, stating "If you know me, you know that Hammerschlagen is one of my favorite games."

45. In February, Deanna Brown Olmstead posted a picture of DAMM's product, tagging Defendant Michael Nicholas in the post. She wrote "For those of you looking for a portable hammerschlanging [sic]..check out Minneschlagen!!" Although Defendant Michael Nicholas responded, he did not correct the confusion.

46. In March, paulser99 posted a link to DAMM's website, stating "Minneschlagen Portable Hammer and Nail Game. #hammerschlagen."

47. In April, alenachristensen27 – identified as a paid partner of DAMM – posted a picture of Minneschlagen's product with the hashtag #hammerschlagen.

48. DAMM promotes its activities online in social media. It is aware the public has expressed confusion that its product is a counterfeit:



49. Springboarding off WRB's goodwill, DAMM has been very successful. In a December 2020 article published by KROX AM, Defendant

Michael Nicholas claims to have sold 80 units in six days. He claims the second relaunch in October sold out in December.

50. According to DAMM's Facebook page, it has sold units in 32 states as of June 2021.

51. When WRB discovered DAMM, it promptly sent a cease-and-desist letter on March 23, 2021. In the letter, WRB offered to allow DAMM the opportunity to operate legitimately as a licensee.

52. DAMM refused WRB's demand and its offer. It claimed it was not infringing because it was merely selling a product and not offering a service. That statement, while not legally significant, was also a lie.

53. DAMM's business competes directly with WRB as they both sell the nail-driving game as a product. DAMM also offers the nail-driving game as a service. DAMM is a sponsor of the Crookston Ox Cart Days, where it hosted "Minneschlagen Schlagfest" at the festival.

54. In addition, DAMM attempted to offer the nail-driving service at Utepils Brewing – one of WRB's prospective customers.

55. Utepils Brewing contacted WRB on May 26, 2021 asking if it could have Hammer-Schlagen at an August 21 event. Initially, WRB had a conflict. But



on August 10, it notified Utepils Brewing of its availability, offering its service at the August 21 event due to a cancellation.

56. Utepils Brewing did not respond; instead, it hired DAMM to offer “Minneschlagen” as an event at Kramarczuk’s Kielbasa Fest 2021 on August 21. Utepils cancelled the event only after WRB instructed them not to.

57. DAMM’s nail-driving product is laid out in a manner that is indistinguishable from WRB’s trade dress.

58. DAMM’s nail-driving product is a counterfeit of WRB’s trade dress, has caused actual confusion as to the source, sponsorship, or affiliation between its products and that of WRB’s brand of service, which is likely to continue.

59. DAMM’s use of WRB’s distinctive design is even more deceptive because it markets and promotes its product using the name Minneschlagen - a mark that is confusingly similar to WRB’s Hammer-Schlagen trademark.

60. DAMM’s use of WRB’s trademark and trade dress is likely to cause confusion as to the source, sponsorship, or approval of its services.

61. DAMM’s conduct has caused actual confusion among consumers who use and are likely to use WRB’s services.

62. DAMM's conduct has been willful and with the intent to confuse consumers and to harm WRB's rights.

63. DAMM's conduct has already caused WRB irreparable harm and, unless enjoined from continuing to infringe, is likely to continue causing irreparable harm to WRB.

64. DAMM has profited off its infringing conduct to the detriment of WRB and it would be unjust to permit DAMM to retain the profits it has made using WRB's intellectual property.

**COUNT I**  
**INFRINGEMENT OF REGISTERED MARKS**  
**15 U.S.C. § 1114**

65. WRB owns the trade dress rights to a configuration of a nail-driving game. The USPTO has granted registration to WRB's trade dress.

66. WRB owns the trademark Hammer-Schlagen, which has been registered and is incontestable.

67. DAMM used WRB's trademark and trade dress in a manner that is likely to cause confusion and in fact has caused confusion.

68. DAMM's use of the trademark and trade dress is willful and intended to confuse the public.



69. DAMM is using a mark and presentation that is identical to or substantially indistinguishable from WRB's registered trademark and trade dress.

70. DAMM's use of WRB's trademark and trade dress violates 15 U.S.C. § 1114(1)(a) and (b).

71. DAMM's use of WRB's trademark and trade dress constitutes counterfeiting as defined in 15 U.S.C. §§ 1116(d).

72. Michael Nicholas, Danielle Nicholas, Matthew Reck, and Allison Reck oversaw, were responsible for, and caused DAMM to use WRB's trademark and trade dress in such a manner.

73. DAMM's use of WRB's trademarks and trade dress has caused WRB irreparable harm. WRB has also suffered damages as a result of DAMM's use of the trademark and trade dress.

**COUNT II**  
**FALSE DESIGNATION**  
**15 U.S.C. § 1125(A)(1)(A)**

74. WRB owns the trade dress rights to the configuration of a nail-driving game. The USPTO has granted registration to WRB's trade dress.

75. WRB owns the trademark Hammer-Schlagen, which has been registered and is incontestable.

76. DAMM used WRB's trademark and trade dress in a manner that "is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person," violating 15 U.S.C. § 1125(a)(1)(A).

77. DAMM's use of the trademark and trade dress is willful and without authorization.

78. DAMM's use of WRB's trademarks and trade dress has caused WRB irreparable harm. WRB has also suffered damages as a result of DAMM's use of the trademark and trade dress.

**COUNT III**  
**CYBERSQUATTING**  
**15 U.S.C. § 1125(D)(1)(B)(1)**

79. DAMM registered, traffics in, and uses the domain <<http://www.minneschlagen.com>>.

80. DAMM's domain name is confusingly similar to WRB's distinctive mark Hammer-Schlagen.

81. DAMM selected and registered the domain name with a bad faith intent to profit from WRB's mark.

**COUNT IV  
TRADEMARK CANCELLATION**

82. DAMM acquired a federal registration for the mark Minneschlagen.

83. DAMM's registered trademark resembles WRB's trademark Hammer-Schlagen and is likely to cause confusion.

84. WRB acquired rights to the Hammer-Schlagen mark before DAMM began using the mark.

85. To prevent further confusion, DAMM's registered trademark should be cancelled pursuant to 15 U.S.C. § 1119.

**COUNT V  
UNFAIR COMPETITION  
MINN. STAT. § 325D.44**

86. Minnesota Statute Section 325D.44 prohibits unfair competition, including "pass[ing] off goods or services as those of another; caus[ing] likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services; caus[ing] likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another."

87. DAMM has engaged in unlawful, unfair, or fraudulent business acts of unfair competition in violation of Minnesota Statute and Minnesota common law through its unauthorized use of WRB's trademark and trade dress.

88. If DAMM is not enjoined from using WRB's marks, it will continue to cause consumer confusion in violation of Minn. Stat. § 325D.44.

Based on the above, Plaintiff WRB, Inc. requests that the Court:

1. Preliminarily and permanently enjoin Defendants from infringing WRB's trademarks and trade dress pursuant to 15 U.S.C. § 1116(a);
2. Award WRB all profits Defendants realized from its trademark and trade dress infringement pursuant to 15 U.S.C. § 1117(a);
3. Award WRB its actual damages caused by Defendants' trademark infringement, cybersquatting, and counterfeiting pursuant to 15 U.S.C. § 1117(a);
4. Award WRB treble damages for counterfeit pursuant to 15 U.S.C. § 1117(b);
5. Alternatively, award WRB statutory damages for counterfeit pursuant to 15 U.S.C. § 1117(c) of not less than \$1,000 and not more than \$2,000,000 per counterfeit per mark;

6. Alternatively, award WRB statutory damages for cybersquatting pursuant to 15 U.S.C. § 1117(d) of not less than \$1,000 and not more than \$100,000 per domain name;
7. Alternatively, transfer ownership of the domain <<http://www.minneschlagen.com>> to WRB pursuant to 15 U.S.C. § 1125(d)(1)(C).
8. Cancel DAMM's federal trademark registration pursuant to 15 U.S.C. § 1119;
9. Award WRB its costs, expenses, and reasonable attorney's fees pursuant to 15 U.S.C. § 1117(a) and Minn. Stat. § 325D.45; and
10. Grant such other and further relief as the Court deems just and equitable.

Dated: August 23, 2021

**RUBRIC LEGAL LLC**

/s/ Michael H. Frasier

Michael H. Frasier (#387704)

Chad A. Snyder (#288275)

111 Third Ave. S – Suite 110

Minneapolis, MN 55401

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chad@rubriclegal.com

Attorneys for WRB, Inc.

# Exhibit 1

# United States of America

## United States Patent and Trademark Office



**Reg. No. 5,548,112**

**Registered Aug. 28, 2018**

**Int. Cl.: 41**

**Service Mark**

**Principal Register**

WRB, Inc. (MINNESOTA CORPORATION), DBA Hammer-Schlagen  
5865 Neal Ave N  
#113  
Stillwater, MINNESOTA 55082

CLASS 41: Entertainment services in the nature of providing persons an opportunity to participate in a game in which participants drive nails into wood

FIRST USE 9-00-1988; IN COMMERCE 2-26-1999

The mark consists of a three-dimensional configuration constituting trade dress comprising of a cylindrical cross-section of a tree with nails positioned around the outer circumference of its upward facing flat circular surface, and a cross-peen hammer whose head is shaped in the manner depicted in the drawing.

OWNER OF U.S. REG. NO. 2405337

SEC.2(F)

SER. NO. 86-710,523, FILED 07-30-2015



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office



**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE:** Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

**NOTE:** A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.



# Exhibit 2

# United States of America

United States Patent and Trademark Office

## Hammer-Schlagen

**Reg. No. 4,804,117**

**Registered Sep. 1, 2015**

**Int. Cl.: 41**

**SERVICE MARK**

**PRINCIPAL REGISTER**

WRB, INC. (MINNESOTA CORPORATION), DBA HAMMER-SCHLAGEN  
SUITE 230  
105 NEW ENGLAND PL  
STILLWATER, MN 55082

FOR: ENTERTAINMENT SERVICES IN THE NATURE OF PROVIDING PERSONS AN OPPORTUNITY TO PARTICIPATE IN A GAME IN WHICH PARTICIPANTS DRIVE NAILS INTO LOGS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 9-0-1988; IN COMMERCE 2-26-1999.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,405,337.

THE ENGLISH TRANSLATION OF "HAMMER-SCHLAGEN" IN THE MARK IS "HAMMER BEATING".

SEC. 2(F).

SER. NO. 86-527,045, FILED 2-6-2015.

LINDSEY BEN, EXAMINING ATTORNEY



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

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- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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WRB, INC. d/b/a Hammer-Schlagen,

Plaintiff,

Court File No. 0:21-cv-01899-NEB-TNL

v.

DAMM, LLC d/b/a Minneschlagen,  
Michael Nicholas, Danielle Nicholas,  
Matthew Reck, and Allison Reck,

Defendants.

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**DEFENDANTS' ANSWER TO COMPLAINT AND JURY DEMAND AND  
COUNTERCLAIMS**

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For their answer and counterclaim to Plaintiff's Complaint and Jury Demand (the "Complaint") of WRB, Inc. ("WRB"), Defendants DAMM, LLC ("DAMM"), Danielle Nicholas, Allison Reck, Michael Nicholas, and Matthew Reck (collectively, "Defendants") state as follows:

The United States Patent and Trademark Office has granted to Defendant DAMM the exclusive right to use the mark MINNESCHLAGEN as a source identifier of games involving a stump, nail, and hammer. (see Exhibit A, copy of United States Trademark Registration No. 6,230,202). Defendants have not and do not provide services to consumers. Prior to filing the Complaint, WRB's counsel was put on notice that the allegations that DAMM provides a service are simply and unequivocally false. (see Exhibit



B, letter to Michael Frasier). Further, without performing a proper investigation, the wives of Matthew Reck and Michael Nicholas were named as co-defendant owners of DAMM LLC. The wives are not members or owners of the LLC.

### **PLAINTIFF'S CHARACTERIZATION OF THE ACTION**

1. With respect to the allegations contained in paragraph 1 of the Complaint, Defendants admit that Plaintiff has filed a Complaint against Defendants but deny that Plaintiff has a rational basis for filing the Complaint. Defendants deny the remaining allegations in paragraph 1 of the Complaint.

2. Defendants deny the allegations contained in paragraph 2 of the Complaint.

3. Defendants deny the allegations contained in paragraph 3 of the Complaint. The U.S. Patent and Trademark Office has only granted WRB service mark registrations.

4. Defendants admit DAMM is a limited liability company organized under the laws of Minnesota. Defendants have not and do not provide services to consumers; they merely sell a product. Defendants deny the remaining allegations contained in paragraph 4 of the Complaint.

5. Defendants deny the allegations contained in paragraph 5 of the Complaint.

### **PARTIES**

6. Defendants lack knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint.

7. Defendants admit the allegations contained in paragraph 7 of the Complaint.

8. Defendants Michael Nicholas, Danielle Nicholas, Matthew Reck, and Allison Reck admit that they are natural persons. Defendants admit that Michael and

Danielle Nicholas are married persons and reside in Minnesota. Defendants admit that Matthew Reck and Allison Reck are married persons and reside in Minnesota. Defendants deny the remaining allegations contained in paragraph 8 of the Complaint.

9. Defendants deny the allegations contained in paragraph 9 of the Complaint.

### **JURISDICTION**

10. Defendants deny the allegations contained in paragraph 10 of the Complaint as it calls for legal conclusions.

11. Defendants deny the allegations contained in paragraph 11 of the Complaint as it calls for legal conclusions.

12. Defendants deny the allegations contained in paragraph 12 of the Complaint as it calls for legal conclusions.

### **THE GERMAN WORD HAMMERSCHLAGEN**

Hammerschlagen is a generic German word used to describe a functional game consisting of a stump, nail, and hammer.

13. Defendants lack knowledge sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 13 of the Complaint.

14. Defendants lack knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint.

15. Defendants lack knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint.

16. The allegations in paragraph 16 are ambiguous and Defendants lack knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint.

17. Defendants deny the allegations contained in paragraph 17 of the Complaint.

18. According to the records maintained by the Minnesota Secretary of State WRB, Inc. was not formed by Mike Wlaschin. Defendants deny the allegations contained in paragraph 18 of the Complaint.

19. Defendants deny the allegations contained in paragraph 19 of the Complaint.

20. The allegations in paragraph 20 of the Complaint contain false and misleading assertions and therefore Defendants deny the allegations contained in paragraph 20 of the Complaint.

21. Defendants deny that WRB began selling a "Hammer-Schlagen Kit" through an exclusive licensor in April 2020. The remaining allegations in paragraph 21 contain false and misleading assertions and therefore Defendants deny the remaining allegations contained in paragraph 21 of the Complaint.

22. The allegations in paragraph 22 of the Complaint contain false and misleading assertions and therefore Defendants deny the allegations contained in paragraph 22 of the Complaint.

23. The allegations in paragraph 23 of the Complaint contain false and misleading assertions and therefore Defendants deny the allegations contained in paragraph 23 of the Complaint.

24. The allegations in paragraph 24 are ambiguous and therefore Defendants deny the allegations contained in paragraph 24 of the Complaint.

25. The allegations in paragraph 25 of the Complaint contain false and misleading assertions and therefore Defendants deny the allegations contained in paragraph 25 of the Complaint.

26. The service mark registration speaks for itself. To the extent the allegations contained in paragraph 26 mischaracterize the service mark registration, Defendants deny the allegations contained in paragraph 26 of the Complaint.

27. The service mark registration speaks for itself. To the extent the allegations contained in paragraph 27 mischaracterize the service mark registration, Defendants deny the allegations contained in paragraph 27 of the Complaint.

28. The service mark registration speaks for itself. Defendants deny the service mark registration is incontestable. In accordance with 15 U.S.C §1065(4) the registration is contestable.

**NO INFRINGEMENT**

29. Defendants deny the allegations contained in paragraph 29 of the Complaint.

30. Defendants deny the allegations contained in paragraph 30 of the Complaint.

31. Defendants deny the allegations contained in paragraph 31 of the Complaint.

32. Defendants deny the allegations contained in paragraph 32 of the Complaint.

33. Defendant DAMM registered the assumed name Minneschlagen with the Minnesota Secretary of State on May 29, 2020. The allegations in paragraph 33 are



ambiguous and Defendants deny the allegations contained in paragraph 33 of the Complaint.

34. Defendants admit that Defendant DAMM was granted a trademark registration and therefore, admits the allegations contained in paragraph 34 of the Complaint.

35. Defendants deny the allegations contained in paragraph 35 of the Complaint as it calls for legal conclusions.

36. Defendants admit that DAMM products are available for sale at "<https://minneschlagen.com/collections/frontpage>." Defendants deny the remaining allegations contained in paragraph 36 of the Complaint.

37. Defendants deny the allegations contained in paragraph 37 of the Complaint.

38. Defendants deny the allegations contained in paragraph 38 of the Complaint.

39. Defendants deny the allegations contained in paragraph 39 of the Complaint.

40. On information and belief the allegations contained in paragraph 40 of the Complaint include mischaracterization of facts and therefore, Defendants deny the allegations contained in paragraph 40 of the Complaint.

41. The allegations contained in paragraph 41 is a mischaracterization of facts and therefore, Defendants deny the allegations contained in paragraph 41 of the Complaint.

42. Paragraph 42 is a mischaracterization of facts, therefore, Defendants deny the allegations contained in paragraph 42 of the Complaint.

43. Paragraph 43 is ambiguous and, therefore, Defendants deny the allegations contained in paragraph 43 of the Complaint.

44. Paragraph 44 is ambiguous and, therefore, Defendants deny the allegations contained in paragraph 44 of the Complaint.

45. Paragraph 45 is ambiguous and, therefore, Defendants deny the allegations contained in paragraph 45 of the Complaint.

46. Paragraph 46 is ambiguous and, therefore, Defendants deny the allegations contained in paragraph 46 of the Complaint.

47. Paragraph 47 is ambiguous and, therefore, Defendants deny the allegations contained in paragraph 47 of the Complaint.

48. Paragraph 48 is a mischaracterization of facts and Defendants deny the allegations contained in paragraph 48 of the Complaint.

49. Defendants deny the allegations contained in paragraph 49 of the Complaint.

50. Defendants deny the allegations contained in paragraph 50 of the Complaint.

51. Paragraph 51 is a mischaracterization of facts and Defendants deny the allegations contained in paragraph 51 of the Complaint.

52. Paragraph 52 is an inflammatory mischaracterization of facts and Defendants deny the allegations contained in paragraph 52 of the Complaint.

53. Defendants deny the allegations contained in paragraph 53 of the Complaint.

54. Defendants deny the allegations contained in paragraph 54 of the Complaint.

55. On information and belief paragraph 55 is a mischaracterization of facts and Defendants deny the allegations contained in paragraph 55 of the Complaint.

56. Defendants deny the allegations contained in paragraph 56 of the Complaint.

57. Defendants deny the allegations contained in paragraph 57 of the Complaint.

58. Defendants deny the allegations contained in paragraph 58 of the Complaint.

59. Paragraph 59 is a mischaracterization of facts and Defendants deny the allegations contained in paragraph 59 of the Complaint.

60. Paragraph 60 is a mischaracterization of facts and Defendants deny the allegations contained in paragraph 60 of the Complaint.

61. Defendants deny the allegations contained in paragraph 61 of the Complaint.

62. Defendants deny the allegations contained in paragraph 62 of the Complaint.

63. Defendants deny the allegations contained in paragraph 63 of the Complaint.

64. Defendants deny the allegations contained in paragraph 64 of the Complaint.

#### **PLAINTIFF'S COUNT ONE**

65. Defendants deny the allegations contained in paragraph 65 of the Complaint.

66. Defendants deny the allegations contained in paragraph 66 of the Complaint.

67. Defendants deny the allegations contained in paragraph 67 of the Complaint.

68. Defendants deny the allegations contained in paragraph 68 of the Complaint.

69. Defendants deny the allegations contained in paragraph 69 of the Complaint.

70. Defendants deny the allegations contained in paragraph 70 of the Complaint.

71. Defendants deny the allegations contained in paragraph 71 of the Complaint.

72. Defendants deny the allegations contained in paragraph 72 of the Complaint.

73. Defendants deny the allegations contained in paragraph 73 of the Complaint.

#### **PLAINTIFF'S COUNT TWO**

74. Defendants deny the allegations contained in paragraph 74 of the Complaint.

75. Defendants deny the allegations contained in paragraph 75 of the Complaint.

76. Defendants deny the allegations contained in paragraph 76 of the Complaint.

77. Defendants deny the allegations contained in paragraph 77 of the Complaint.

78. Defendants deny the allegations contained in paragraph 78 of the Complaint.

**PLAINTIFF'S COUNT THREE**

79. The allegations in paragraph 79 are ambiguous and Defendants deny the allegations contained in paragraph 79 of the Complaint.

80. Defendants deny the allegations contained in paragraph 80 of the Complaint.

81. Defendants deny the allegations contained in paragraph 81 of the Complaint.

**PLAINTIFF'S COUNT FOUR**

82. Paragraph 82 is a mischaracterization of facts and Defendants deny the allegations contained in paragraph 82 of the Complaint.

83. Defendants deny the allegations contained in paragraph 83 of the Complaint as it calls for legal conclusions.

84. Defendants deny the allegations contained in paragraph 84 of the Complaint.

85. Defendants deny the allegations contained in paragraph 85 of the Complaint.

**PLAINTIFF'S COUNT FIVE**

86. Paragraph 86 appears to quote a section of a Minnesota statute and requires no answer.

87. Defendants deny the allegations contained in paragraph 87 of the Complaint.

88. Defendants deny the allegations contained in paragraph 88 of the Complaint.

**PLAINTIFF'S PRAYER FOR RELIEF**

With respect to the allegations contained in Plaintiff's requests on page 20 and page 21 of the Complaint, Defendants recognize that Plaintiff is not entitled to the requested relief and Defendants deny the allegations contained in the requests.

**AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief can be granted against all or some of the Defendants. Plaintiff's failed to perform an adequate investigation and Plaintiff's allegations lack the requisite supporting facts to state a plausible claim for relief against all or some of the Defendants. Specifically, there are no legal records or documents to support a belief that Danielle Nicholas or Allison Reck are joint owners of Damm LLC. Pure speculation is not a legitimate basis for bringing a claim against someone. Further, Plaintiff's Complaint fails to allege any specific instances of unlawful conduct purportedly attributable to Defendants Michael Nicholas, Danielle Nicholas, Matthew Reck, and Allison Reck in their individual capacity; they are entitled to protections afforded by the LLC.

2. Defendants Michael Nicholas, Danielle Nicholas, Matthew Reck, and Allison Reck are not liable because they acted in good faith conformity with applicable rules, regulations, and statutory interpretations.

3. Plaintiff has not alleged or experienced any actual damages which were caused by Michael Nicholas, Danielle Nicholas, Matthew Reck, and Allison Reck, or for which Michael Nicholas, Danielle Nicholas, Matthew Reck, and Allison Reck are liable.

4. In accordance with 15 U.S.C. §1115, Defendants have a right to use MINNESCHLAGEN as a source identifier of its stump, nail, and hammer product.

5. Any alleged use of the word "hammerschlagen" by Defendants is not actionable because it is a fair use of the word to describe a hammer pounding game and used in good faith under 15 U.S.C. § 1115.

6. At this time, in accordance with 15 U.S.C. §§1064, 1067, 1068, and 1071(b), this Court lacks subject matter jurisdiction over WRB's attempts to cancel DAMM's valid and enforceable trademark registration.

7. Plaintiff's registered service marks for the word "Hammerschlagen" (which means strike with a hammer, or hammer strike) are generic in connection with a game involving striking with a hammer a nail into a log.

8. The word "hammerschlagen" has become a descriptive and generic reference to public and private activities that use a hammer, nail and stump as a game.

9. The word hammerschlagen has become a descriptive and generic reference to a hammer, nail, and stump backyard lawn game.

10. Plaintiff's registered service mark for trade dress – a cross peen hammer (that can be bought at any hardware store), nails (that can be bought at any hardware store), and a log (that could be cut from any tree in the wooded areas across the country), are functional and generic for a game involving striking a nail into wood with a hammer.

11. In accordance with 15 U.S.C. §1052(e) tradedress rights do not extend to a functional combination of a stump, nails, and hammer product.

12. WRB does not own any trade dress rights as a source identifier of a hammer, nail and stump product sold in interstate commerce.

13. WRB has not been granted a registration certificate for trade dress rights as a source identifier of a hammer, nail and stump product sold in interstate commerce.

14. WRB does not own any trademark rights as a source identifier of a hammer, nail and stump product sold in interstate commerce.

15. WRB has not been granted a registration certificate for trademark rights as a source identifier of a hammer, nail and stump product sold in interstate commerce.

16. Plaintiff is barred by the doctrine of Trademark misuse from bringing and maintaining this action under the Trademark Act against Defendants.

17. The asserted Marks are generic or otherwise weak. Accordingly, Plaintiff cannot establish that the Marks have served as a source identifier and cannot establish any damages.

18. The asserted Trademark registrations are invalid and unenforceable because they have been acquired or maintained fraudulently.

19. Plaintiff failed to mitigate its damages, if any.

20. Plaintiff's claims are barred in whole or in part by the doctrine of laches and unclean hands.

### **COUNTERCLAIMS**

Subject to and without waiving Defendants' reservation of claims that this Court lacks subject matter jurisdiction and objections to venue at this time before this Court, in the event this Court determines otherwise, DAMM, LLC, Michael Nicholas, Danielle

Nicholas, Matthew Reck, and Allison Reck (collectively, "Counterclaimants") bring these counterclaims against WRB, Inc.

### **BACKGROUND**

1. This is not the first time Plaintiff has filed vexatious litigation. On or about December 2016 Plaintiff sued Vision Marketing LLC asserting infringement of its registrations to Hammer-Schlagen and trade dress. The Defendants in that case asserted that WRB's trademarks were not enforceable because they were descriptive and functional. WRB was sanctioned for failing to provide requested discovery. The lawsuit was dismissed with prejudice. See Exhibit G, Court docket.

2. Consumers use the words hammer-schlagen, hammerschlagen and #hammerschlagen descriptively and generically. See Exhibits C and D.

3. WRB uses a German word that is descriptive of its entertainment services.

4. The German word "hammerschlagen" may be translated to mean "hammer beating" or "hammer pounding" or "hammer striking"

5. The words "hammerschlagen stump" may be translated to mean in English "hammer pounding stump"

6. A hammer is a functional object.

7. A nail is a functional object.

8. A stump is a naturally occurring object.

9. A log is a naturally occurring object.



**DAMM'S TRADEMARK REGISTRATION**

10. DAMM, LLC is registered in the State of Minnesota as a limited liability Company. Minnesota Revised Uniform Limited Liability Company Act §322C.0304 limits the liability of its members.

11. On or about May 8, 2020 DAMM LLC filed an intent to use trademark application seeking to obtain exclusive rights to use the mark MINNESCHLAGEN on equipment sold as a unit for playing stump, nail and hammer games. The application was assigned serial no. 88/907,094.

12. On or about August 20, 2020 a United States Trademark Examiner assigned to DAMM LLC trademark application serial number 88/907,094 searched Google, Onelook and Wikipedia and found no trademark use that would likely to be confused with the applied for trademark MINNESCHLAGEN.

13. On or about August 20, 2020 a United States Trademark Examiner assigned to DAMM LLC trademark application serial number 88/907,094 issued an examiner's amendment declaring that "[t]he trademark examining attorney searched the USPTO database of registered and pending marks and found no conflicting marks that would bar registration under Trademark Act Section 2(f). 15 U.S.C. § 1052(d); TMEP §704.02."

14. On or about November 9, 2020 DAMM LLC submitted a specimen demonstrating that it had used the mark MINNESCHLAGEN on the goods designated in DAMM LLC trademark application serial number 88/907,094.

15. On or about December 22, 2020 the United States Patent and Trademark Office granted DAMM exclusive rights to MINNESCHLAGEN and issued United States Trademark Registration 6,230,202.

16. United States Trademark Registration No. 6,230,202 grants DAMM LLC the exclusive right to use the mark MINNESCHLAGEN as an identifier of the source of games involving a stump, nail, and hammer.

### **WRB'S FRAUDULENT TRADEMARKS**

17. The word "hammerschlagen" is descriptive of an action used when players play a game involving a hammer, nail, and stump.

18. WRB uses the descriptive word hammerschlagen to identify components that it utilizes when it provides an entertainment service. WRB also uses the word hammerschlagen to promote entertainment services that it provides.

19. WRB has not continuously used the word "Hammerschlagen" as an identifier of the source of a product sold in interstate commerce that includes a stump, nail, and hammer.

20. WRB does not own trade dress rights as a source identifier of a hammer, nail and stump product sold in interstate commerce.

21. WRB has not been granted a registration certificate for trade dress rights as a source identifier of a hammer, nail and stump product sold in interstate commerce.

22. WRB did not use continuously in commerce the words "hammerschlagen stump" or Hammerschlagen kit" as a source identifier of a hammer, nail and stump product sold in interstate commerce until after it became aware of the DAMM product.

23. WRB did not use continuously in commerce the words "hammerschlagen stump" or Hammerschlagen kit" as a source identifier of a hammer, nail and stump product sold in interstate commerce until after it became aware of the use in commerce of the word MINNESCHLAGEN as a source identifier of a hammer, nail and stump product sold in interstate commerce.

24. After the United States Patent and Trademark office granted to DAMM the exclusive right to use the word MINNESCHLAGEN as an identifier of the source of products involving a stump, nail, and hammer, WRB filed a trademark application seeking to register the word "hammerschlagen" as an identifier of the source of products involving a stump, nail, and hammer. The United States Patent and Trademark Office assigned this application serial number 90/453,221.

25. On or about January 7, 2021 James Martin filed the application that was assigned serial number 90/453,221 (the '221 application).

26. James Martin signed a declaration for the benefit of WRB swearing that he had no knowledge of any other entity having a right to use in commerce the word hammerschlagen or any other word likely to be confused with hammerschlagen as an identifier of the source of product involving a stump, nail, and hammer.

27. On information and belief James Martin was aware of DAMM's trademark registration when he signed the declaration in the '221 application.

28. James Martin through WRB asserts that MINNESCHLAGEN is likely to be confused with hammerschlagen, yet WRB has not withdrawn the '221 application. On information and belief the declaration signed by James Martin was submitted fraudulently and continues a fraud on the trademark office.

29. James Martin signed a declaration swearing that the word hammerschlagen had been used continuously in interstate commerce since 1999 as an identifier of WRB as the source of products involving a stump, nail, and hammer. James Martin's declaration is a fraudulent statement.

30. On or about July 15, 2021 a United States Trademark Examiner assigned to the '221 application searched Google, Lexis/Nexis, Onelook, Wikipedia, and acronyms finder and found no trademark use that would likely to be confused with the word hammerschlagen.

31. On or about July 15, 2020 a United States Trademark Examiner assigned to the '221 application issued an examiner's amendment declaring that "[t]he trademark examining attorney searched the USPTO database of registered and pending marks and found no conflicting marks that would bar registration under Trademark Act Section 2(f). 15 U.S.C. § 1052(d); TMEP §704.02."

32. On or about August 24, 2021 WRB allowed the '221 application to be published for opposition knowing that the United States Trademark Office granted DAMM LLC the exclusive right to use the word MINNESCHLAGEN as an identifier of the source of games involving a stump, nail, and hammer and knowing it had filed a Complaint with

this Court asserting a likelihood of confusion between the word Hammer-Schlagen and MINNESCHLAGEN.

**CONSUMERS USE THE WORD "HAMMERSCHLAGEN"**

**GENERICALLY AND DESCRIPTIVELY**

33. On information and belief a Google search of the word "hammerschlagen" produces more than 46,000 results. See Exhibit C. Most of these results have no connection with the services provided by WRB. The word hammerschlagen is being used descriptively and generically.

34. On information and belief a Google search of the hashtag "#hammerschlagen" produces more than 60,000 results. See Exhibit D. Most of these results have no connection with the services provided by WRB. The hashtag #hammerschlagen is being used generically.

35. On information and belief an Instagram search of the hashtag "#hammerschlagen" produces more than 7,000 posts. See Exhibit E. Most of these posts have no connection with the services provided by WRB. The hashtag #hammerschlagen is being used generically.

36. On information and belief a Pinterest search of the hashtag "#hammerschlagen" produces more than a 1000 images. Most of these posted images have no connection with the services provided by WRB. The hashtag #hammerschlagen is being used generically.

37. All consumers do not use a hashtag to identify the source of a service or good.

38. All uses of "#hammerschlagen" have not been used as a reference to or source identifier of the services provided by WRB.

### **INTERFERENCE WITH DAMM'S BUSINESS**

39. WRB engages in predatory business practices attempting to monopolize use of a hammer, nail and stump.

40. Counterclaimants have created, marketed, and sold, and DAMM continues to create, market, and sell, a backyard lawn game that includes a hammer, nail, and portion of a log or stump. The backyard game is known as "MINNESCHLAGEN" by consumers.

41. DAMM markets and sells its "MINNESCHLAGEN" backyard game through various channels of trade, including through web sales and at flea markets or local festivals. DAMM has also offered donations to public schools and local charities. The flea markets, festivals, schools, and charities are directed by individuals (collectively, "DAMM Partners").

42. Prior to commencing this action against Defendants, WRB sent demand letters to the DAMM Partners, including but not limited to contacts at Independent School District 593, Crookston Pirate Booster Club, and Utepils Brewing Co. WRB was warned that their demand letters contained false allegations and misstatements of fact and law. These demand letters threatened to sue the DAMM Partners if they did not disassociate with DAMM. A true and correct copy of communications regarding these demand letters is attached hereto as Exhibit F and incorporated herein by reference.

43. As a result of WRB demand letters, DAMM Partners have recommended disassociating with DAMM and preventing DAMM from selling its product at festivals.

44. Upon information and belief, in conjunction with its demand letters, representatives or agents of WRB also communicated with some or all of the DAMM Partners. These communications included disparaging remarks about Counterclaimants beyond the scope of DAMM's allegedly infringing product.

45. WRB is liable for the acts and conduct of its representatives and agents alleged herein.

**COUNTERCLAIM COUNT I: TORTIOUS INTERFERENCE, TORTIOUS  
INTERFERENCE WITH BUSINESS ADVANTAGE**

46. Counterclaimants reallege each of the allegations contained in paragraphs 1 through 45 of the Counterclaim and incorporate them herein by reference.

47. By sending its demand letters and/or communicating about DAMM with the DAMM Partners, WRB also intentionally and improperly interfered with DAMM's prospective economic advantage stemming from sales of its product.

48. Upon information and belief, WRB's intentional and improper interference induced or otherwise caused third parties not to enter into or continue prospective contractual arrangements with DAMM.

49. Upon information and belief, WRB's intentional and improper interference prevented DAMM from channels of trade to market and sell its product.

50. WRB's tortious interference with DAMM's prospective contractual relationships with third parties has caused and continues to cause DAMM damages in an amount to be determined at trial.

**COUNTERCLAIM COUNT II: DECEPTIVE TRADE PRACTICES**

51. Counterclaimants reallege each of the allegations contained in paragraphs 1 through 50 of the Counterclaim and incorporate them herein by reference.

52. WRB sent its demand letters to, and/or communicated about DAMM with DAMM Partners in the course of its business.

53. WRB's demand letters to, and/or communications about DAMM with DAMM Partners contained false or misleading representations of fact.

54. WRB's demand letters to, and/or communications about DAMM with DAMM Partners disparaged the goods or business of DAMM, causing and continuing to cause injury to DAMM.

55. WRB's business disparagement of DAMM was willful.

56. DAMM is entitled to an injunction against WRB and its representatives and agents to prevent further injury and irreparable harm to DAMM from WRB's business disparagement pursuant to Minn. Stat. Ann. § 325D.45(1).

57. DAMM is also entitled to recover its costs and attorneys' fees as the prevailing party pursuant to Minn. Stat. Ann. § 325D.45(1).

**COUNTERCLAIM III: PLAINTIFF'S REGISTRATIONS ARE  
INVALID AND UNENFORCEABLE**

58. Counterclaimants reallege each of the allegations contained in paragraphs 1 through 57 of the Counterclaim and incorporate them herein by reference.



59. WRB has obtained service mark registrations that are limited to exclusionary rights to use a word as a source identifier for entertainment services.

60. On information and belief, WRB has chosen to use and continues to use the descriptive word *hammerschlagen* and functional objects (a log, nail, and hammer) as a source identifier for the entertainment services it provides.

61. WRB has not continuously used the word *hammerschlagen* as a source identifier of a game sold or offered for sale in interstate commerce prior to May 8, 2020.

62. Any service mark rights WRB may have in the words *hammerschlagen* and functional objects (a log, nail, and hammer) as a source identifier for the entertainment services it provides does not expand its rights to prevent others from using these words or objects to describe a game that includes a hammer, nails and stump.

63. The word "*hammerschlagen*" has become a generic name for a backyard game that utilizes a stump, hammer and nails.

64. The combination of a stump, hammer and nails as a game is functional.

65. WRB is attempting to fraudulently obtain a trademark registration for the word "*hammerschlagen*" as a source identifier of a backyard game that includes a stump, hammer and nails.

66. The primary significance of the word *hammerschlagen* to the relevant public is that it describes a feature of the game - hammer striking or hammer pounding.

67. Incontestable rights in a service mark do not extend to a generic name for the goods used when performing those services.

68. WRB has used its trademark registrations to threaten, intimidate and coerce legitimate sellers of product that includes a hammer, nail and stump for use as a backyard lawn game.

69. WRB's misconduct renders unenforceable any trademark rights it may have.

### **PRAYERS FOR RELIEF**

Wherefore, Defendants respectfully demand and pray that this Court:

A. Dismiss Plaintiff's Complaint with prejudice and grant judgment in favor of Defendants and against WRB on the Complaint;

B. Grant judgment in favor of Counterclaimants and against WRB on Counterclaimants' counterclaims;

C. Enter a declaratory judgment that U.S. Trademark Registrations 4,804,117 and 5,548,112 are not enforceable against Defendants.

D. Cancel U.S. Trademark Registrations 4,804,117 and 5,548,112.

E. Enter an injunction against WRB, enjoining it and its representatives and agents from any further disparagement of Counterclaimants;

F. Enter an injunction against WRB, enjoining it and its representatives and agents from any further interference with DAMM LLC business;

G. Declare U.S. Trademark application for registration serial number 90/453,221 unenforceable for fraud on the U.S. Patent and Trademark Office;

H. Award Counterclaimants damages in an amount to be proven at trial;

I. Award Counterclaimants their attorneys' fees and costs; and

J. Award Defendants and Counterclaimants such other and further relief as this Court may deem just and proper under the circumstances.

**JURY DEMAND**

Defendants demand trial by jury of all issues so triable.

Dated: August 31, 2021

Respectfully Submitted,

s/ Paul Dietz

Paul T. Dietz (#237838)  
Attorney for Defendants

HAUGEN LAW FIRM PLLP  
121 South Eighth Street, Suite 1130  
Minneapolis, MN 55402  
Telephone: 612-339-8300  
Facsimile: 612-339-8200  
Email: pdietz@haugenlaw.com

**ATTORNEY FOR DEFENDANTS  
AND COUNTERCLAIMANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2021 I caused to have electronically filed the foregoing with the Clerk of Court using the CM/ECF System which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice.

Respectfully Submitted,

s/ Paul Dietz

Paul T. Dietz (#237838)

Attorney for Defendants

HAUGEN LAW FIRM PLLP  
121 South Eighth Street, Suite 1130  
Minneapolis, MN 55402  
Telephone: 612-339-8300  
Facsimile: 612-339-8200  
Email: pdietz@haugenlaw.com

**ATTORNEY FOR DEFENDANTS  
AND COUNTERCLAIMANTS**

# EXHIBIT A

# United States of America

United States Patent and Trademark Office

## MINNESCHLAGEN

**Reg. No. 6,230,202**

**Registered Dec. 22, 2020**

**Int. Cl.: 28**

**Trademark**

**Principal Register**

DAMM LLC (MINNESOTA LIMITED LIABILITY COMPANY)

3940 Niagra Lane N.

Plymouth, MINNESOTA 55446

CLASS 28: Equipment sold as a unit for playing action skill games involving a stump, nail and hammer; Party games

FIRST USE 7-1-2020; IN COMMERCE 7-1-2020

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

The wording "MINNESCHLAGEN" has no meaning in a foreign language.

SER. NO. 88-907,094, FILED 05-08-2020



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office



**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**



# EXHIBIT B

Orrin M. Haugen (1927-2003)  
Eric O. Haugen  
Mark J. Burns\*  
Paul T. Dietz  
\*Also Admitted In Wisconsin

**HAUGEN LAW FIRM PLLP**

1130 TCF Tower  
121 South Eighth Street  
Minneapolis, MN 55402

Patents  
Trademarks  
Copyrights  
Unfair Competition

Telephone 612-339-8300 • Facsimile 612-339-8200  
Toll Free 866-339-8300

August 20, 2021

RUBRIC LEGAL LLC  
Attn: Michael Frasier  
111 Third Avenue South  
Minneapolis, MN 55401

SUBJECT: Accusations regarding U.S. Trademark Registrations 4,804,117 and 5,548,112

Mr. Frasier:

Our firm represents Damm LLC in their intellectual property matters. Your client, WRB, Inc., is aware that Damm LLC is represented by counsel. All future communications from your firm addressed to Damm LLC should be directed to me. I am responding to the communication you improperly sent to our client dated August 13, 2021. As you undoubtedly are aware, your letter overstates your client's IP rights, alleges unsupportable facts, and misrepresents several aspects of trademark law in an apparent continued effort to intimidate and expand a monopoly beyond your client's legal rights.

Damm LLC is the owner of US Trademark Registration No. 6,230,202 (hereafter referred to as "the '202 registration") for the mark MINNESCHLAGEN. I have provided a copy of this registration with this letter for your reference. Damm LLC has been granted the exclusive right to use MINNESCHLAGEN in conjunction with equipment sold as a unit for playing action skill games involving a stump, nail, and hammer. Under the law, your client's registrations do not somehow negate the legal rights granted to Damm LLC by the US Patent and Trademark Office.

Unfortunately, your client has shown a complete disregard for the legal rights of Damm LLC. It has come to our attention that your client has contacted customers of Damm LLC, threatened their customers, and asserted false legal conclusions concerning the products lawfully sold by Damm LLC. This sort of intimidation and interference with our client's business must cease immediately. Damm LLC expects to be compensated for the harm caused by this tortious interference with their business.

Letter to Michael Frasier

August 20, 2021

Page 2

Further, Damm LLC's registration precludes your client or potential licensees from selling equipment involving a stump, nail, and hammer under a mark that is confusingly similar to the MINNESCHLAGEN mark. Contrary to fraudulent representations recently made by your client to the United States Patent and Trademark office, your client has not continuously sold stump, hammer and nail games continuously under the mark "Hammerschlagen" since 1999. These fraudulent representations will invalidate your client's pending application. Further, your client and its licensees must respect the rights of Damm LLC and cease use of confusingly similar marks to promote backyard lawn games.

Regarding your assertions that Damm LLC has infringed your client's registrations, nothing could be further from the truth. Your client's trademark rights are limited to entertainment services and Damm LLC does not provide entertainment services. Your references to "Minneschlagen Schlagfest" at the Crookston Ox Cart Days is misguided. First, the festival has not occurred, and second, Damm LLC is not providing services at the Crookston festival.

Regarding your trade dress assertions, the Lanham Act does not grant exclusionary rights to make and sell a naturally occurring object or other functional objects that have been in use for 100's of years. Trademark law does not recognize rights in functional aspects of goods, services or trade dress. To the extent your client might have trade dress rights for services provided by your client, those rights do not extend to functional aspects of goods used to provide those services. A stump, hammer and nails are all functional objects for pounding or beating nails into the stump. Your client has no legal rights to a naturally occurring object, a functional hammer or functional nails. Further, the MINNESCHLAGEN game is readily distinguishable from the props used by your client when providing its services.

Additionally, your accusations of confusion are also misguided. Your client chose to use a descriptive word "Hammerschlagen" to promote its entertainment services. The examples of confusion you identified actually demonstrate that the consuming public uses the word "hammerschlagen" in a generic, descriptive sense in reference to a nail and hammer beating game. The consumer's use of a descriptive word in a generic sense does not demonstrate confusion.

Damm LLC respects the intellectual property of others and has not infringed upon your client's intellectual property rights. Your client does not have exclusionary patent rights, does not have exclusionary rights to naturally occurring objects, does not have exclusionary rights to generic functional objects, and does not have exclusionary rights to a backyard game. However, your client must respect the trademark registration of Damm LLC. Unlike past back yard game manufacturers Damm LLC will not succumb to your client's threats.

At this juncture your client may choose to become adversarial by filing litigation against my client, in which case Damm LLC will defend itself, file counterclaims, identify your client's fraud, and oppose your client's current application for registration related to parlor games. As an alternative, your client may choose to coexist in the marketplace, in which case Damm LLC may consider a concurrent use agreement provided that the terms of use are acceptable to Damm LLC (however, we will still need to

Letter to Michael Frasier

August 20, 2021

Page 3

resolve the harm your client has caused our client's business).

Unless, I hear from you by August 24, 2021 (the date your client's application will be published for opposition), your silence will be relied upon by Damm LLC as a concession that each of our clients have intellectual property rights and your client has chosen to respect the intellectual property rights of Damm LLC.

Sincerely,  
HAUGEN LAW FIRM PLLP

/Paul Dietz/

Paul T. Dietz

PTD/krs

# United States of America

United States Patent and Trademark Office

## MINNESCHLAGEN

**Reg. No. 6,230,202**

**Registered Dec. 22, 2020**

**Int. Cl.: 28**

**Trademark**

**Principal Register**

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SER. NO. 88-907,094, FILED 05-08-2020



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office



# EXHIBIT C



hammerschlagen



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<http://www.hammerschlagen.com> › [about\\_us](#) › [rules](#)

## About Us, Rules - Hammer-Schlagen

Hammerschlagen Rules© · Each player purchases a nail to start the game · Men use one hand only, ladies have the option of using two hands · Grip the hammer behind ...

### People also ask

How do you play Hammerschlagen?

Who invented Hammerschlagen?

Is Hammerschlagen German?

How do you get a Hammerschlagen stump?

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### Videos



Hammerschlagen 101 in time for Oktoberfest

YouTube · Aberdeen American News  
Oct 18, 2017

In this video

What is the game HAMMERSCHLAGEN?



How to Play Hammerschlagen / Stump

YouTube · Jake White  
Sep 30, 2012



4 key moments in this video



Hammerschlagen Stand - Quick and Dirty

YouTube · Do It  
Oct 17, 2019



Stump Game Video How To Play Hammerschlagen Hammer ...

YouTube · JimsStoreUSA on eBay  
Oct 1, 2016

2 key moments in this video

Feedback



View all

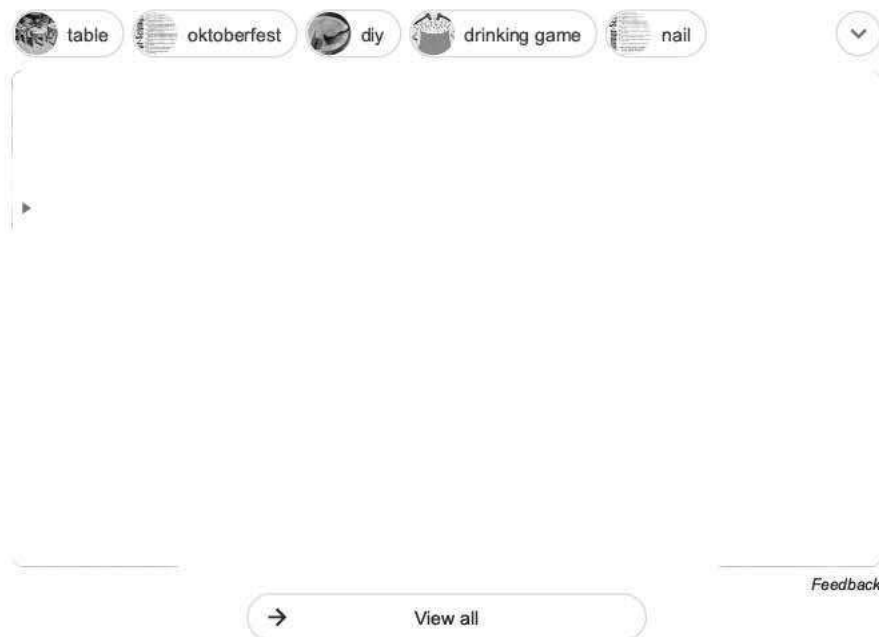
<http://dariencomfest.us> › [News](#)

## What the Heck is a Hammerschalgen? - Darien Cornfest

Hammerschlagen is a German game reportedly dating from 1940,] in which several contestants try to hammer a nail into a stump. · Hammerschlagen ("Hammer-Striking") ...

### Images for hammerschlagen





<https://europeisnotdead.com> › germany-hammerschlagen

### Germany - Hammerschlagen - Europe Is Not Dead!

Germany – Hammerschlagen ... Nails (12/16d). ... Each player is assigned a nail. Each player's turn consists of a single swing at their nail with the wedge end of ...

<https://www.amazon.com> › hammerschlagen › k=hamm...

### 1-48 of 124 results for "hammerschlagen" - Amazon.com

Amazon.com: hammerschlagen. ... 1-48 of 124 results for "hammerschlagen". Price and other details may vary based on product size and color.

<https://www.wsj.com> › articles › the-hardest-thing-about-h...

### The Hardest Thing About Hammerschlagen Is Scoring a Tree ...

Nov 25, 2016 — In Hammerschlagen (German for hammer strike, a nod to its supposed Bavarian origins), each player strikes his own nail. The task demands ...

<https://www.startribune.com> › a-dispute-over-hammer-s...

### A dispute over Hammer-Schlagen in Stillwater zeroes in on ...

Jul 16, 2021 — Hammerschlagen, a game involving hammering nails into stumps for fun, is often associated with Oktoberfest, beer and German heritage. A ...

<https://www.pinterest.com> › pin

### Made a Hammerschlagen table.. A fun backyard game

Hammerschlagen - Basically you see who can drive their nail in first. You get one swing at it per round. You use the chisel end of a riveting hammer.

<https://bringmethenews.com> › MN News

### Hammer-Schlagen owners settle with brewery in stump ...

Mar 15, 2021 — Schoene's father-in-law Mike Alschin took over the game in the 1980s, standardizing it and renaming it Hammer-Schlagen. He also changed the goal ...

### Related searches

hammerschlagen **drinking rules**

hammerschlagen **wikipedia**

hammerschlagen **hammer type**

hammerschlagen **table**

hammerschlagen **lawsuit**

hammerschlagen **stump size**

hammerschlagen **kit**

**portable** hammerschlagen

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# EXHIBIT D



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What kind of wood is used for Hammerschlagen?

Who invented Hammerschlagen?

How do you play the Hammerschlagen drinking game?

Feedback

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YouTube · Do It  
Oct 17, 2019



Stump Game Video How To Play Hammerschlagen Hammer ...

YouTube · JimsStoreUSA on eBay  
Oct 1, 2016

2 key moments in this video



Feedback



View all

### Images for #hammerschlagen



table



oktoberfest



diy

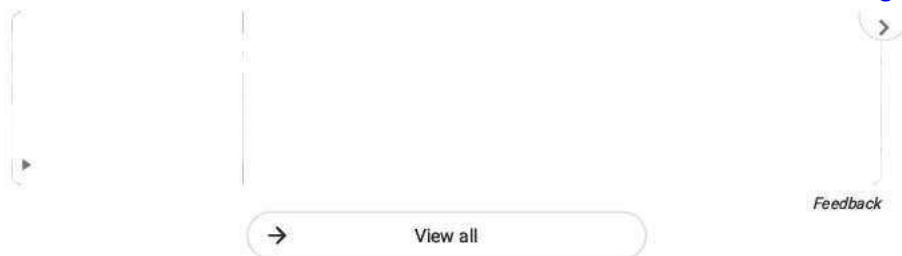


drinking game



nail





<http://dariencornfest.us> › News

### What the Heck is a Hammerschlagen? - Darien Cornfest

Hammerschlagen is a German game reportedly dating from 1940, in which several contestants try to hammer a nail into a stump. · Hammerschlagen ("Hammer-Striking") ...

<https://europeisnotdead.com> › germany-hammerschlagen

### Germany - Hammerschlagen - Europe Is Not Dead!

Germany – Hammerschlagen ... Nails (12/16d). ... Each player is assigned a nail. Each player's turn consists of a single swing at their nail with the wedge end of ...

<https://www.amazon.com> › hammerschlagen › k=hamm...

### 1-48 of 124 results for "hammerschlagen" - Amazon.com

Amazon.com: hammerschlagen. ... 1-48 of 124 results for "hammerschlagen". Price and other details may vary based on product size and color.

<https://www.wsj.com> › articles › the-hardest-thing-about-h...

### The Hardest Thing About Hammerschlagen Is Scoring a Tree ...

Nov 25, 2016 — In Hammerschlagen (German for hammer strike, a nod to its supposed Bavarian origins), each player strikes his own nail. The task demands ...

<https://www.pinterest.com> › pin

### Made a Hammerschlagen table.. A fun backyard game

Hammerschlagen - Basically you see who can dive their nail in first. You get one swing at it per round. You use the chisel end of a riveting hammer.

<https://bringmethenews.com> › MN News

### Hammer-Schlagen owners settle with brewery in stump ...

Mar 15, 2021 — Schoene's father-in-law Mike Alschin took over the game in the 1980s, standardizing it and renaming it Hammer-Schlagen. He also changed the goal ...

<https://www.instructables.com> › Living › Toys & Games

### Hammerschlagen® : 3 Steps - Instructables

Hammer-Schlagen® is a decades old brand of a nail driving competition that began in Stillwater, MN in the mid-20th Century. The two primary trademarks of ...

### Related searches

hammerschlagen hammer type

hammerschlagen rules pdf

hammerschlagen drinking rules

hammerschlagen table

hammerschlagen kit

hammerschlagen wikipedia

hammerschlagen lawsuit

hammerschlagen stump size

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# EXHIBIT E



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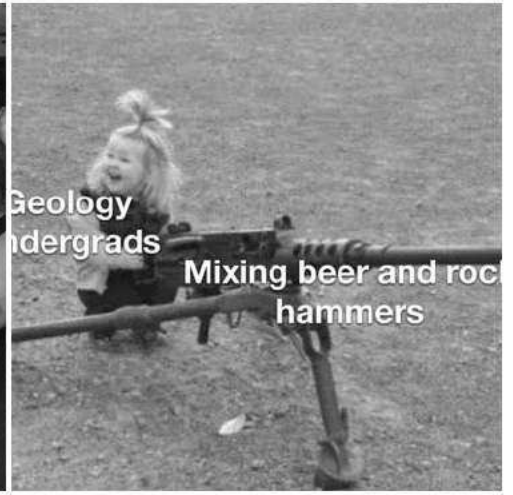


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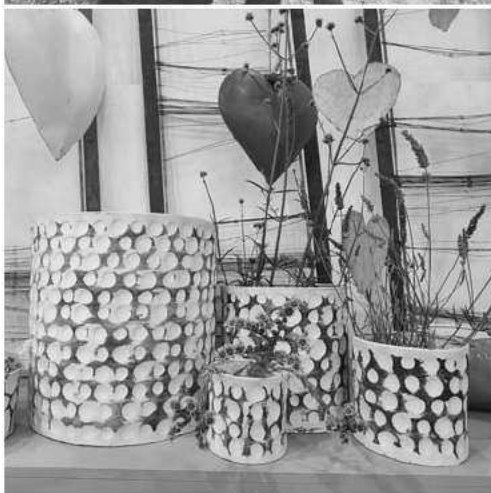
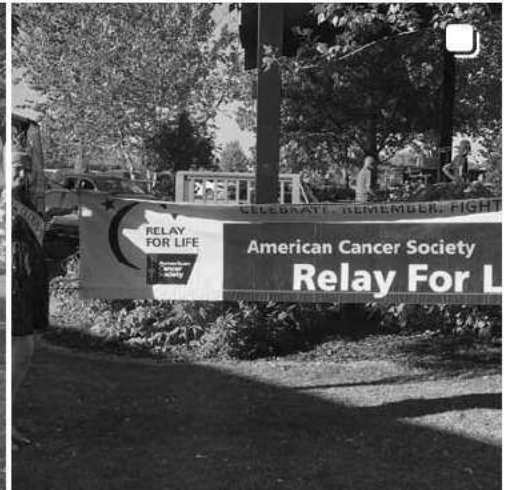
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English  © 2021 Instagram from Facebook

# EXHIBIT F

----- Forwarded message -----

From: **Wahouske, Marilyn** <[marilynwahouske@isd593.org](mailto:marilynwahouske@isd593.org)>

Date: Thu, Aug 19, 2021 at 10:04 AM

Subject: Fwd: Attached Image

To: Garmen, Greg <[greggarmen@isd593.org](mailto:greggarmen@isd593.org)>, Charles Reynolds <[charlesreynolds@nwmnlaw.com](mailto:charlesreynolds@nwmnlaw.com)>

I received this certified letter today -- the notice came to my home mailbox yesterday and Bill picked it up at the post office this morning but I'm not sure when it's dated. It looks like it's needing some action on our part if we're going to consider using these as a fundraiser and I don't want to jeopardize our legal status or anything so thought you should be aware of this. I don't know if we've pursued anything with this but my vote would be to discontinue any future dealings with them so we don't get in any legal trouble. Corky, maybe you can read into this better than I do, but it looks pretty convincing to me.

*Marilyn Wahouske*

*Executive Assistant to the Superintendent*

Crookston Public Schools

402 Fisher Avenue, Suite 593

Crookston, MN 56716

Ph. 218.281.5313 ext. 3

Fax 218.281.3505

[marilynwahouske@isd593.org](mailto:marilynwahouske@isd593.org)

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----- Forwarded message -----

From: **Wahouske, Marilyn** <[marilynwahouske@isd593.org](mailto:marilynwahouske@isd593.org)>

Date: Thu, Aug 19, 2021 at 10:04 AM

Subject: Fwd: Attached Image

To: Garmen, Greg <[greggarmen@isd593.org](mailto:greggarmen@isd593.org)>, Charles Reynolds <[charlesreynolds@nwmnlaw.com](mailto:charlesreynolds@nwmnlaw.com)>

I received this certified letter today -- the notice came to my home mailbox yesterday and Bill picked it up at the post office this morning but I'm not sure when it's dated. It looks like it's needing some action on our part if we're going to consider using these as a fundraiser and I don't want to jeopardize our legal status or anything so thought you should be aware of this. I don't know if we've pursued anything with this but my vote would be to discontinue any future dealings with them so we don't get in any legal trouble. Corky, maybe you can read into this better than I do, but it looks pretty convincing to me.

*Marilyn Wahouske*

*Executive Assistant to the Superintendent*

Crookston Public Schools

402 Fisher Avenue, Suite 593

Crookston, MN 56716

Ph. 218.281.5313 ext. 3

Fax 218.281.3505

[marilynwahouske@isd593.org](mailto:marilynwahouske@isd593.org)

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CROOKSTON, MINNESOTA 56716

Bremer Bank Building  
201 North Broadway, Suite #2  
Telephone 218-281-4168  
Facsimile 218-281-7928

Toll Free 1-800-870-4168

August 19, 2021

James Martin  
5865 Neal Ave N  
#113  
Stillwater, MN 55082

### RE: Crookston Pirate Boosters

Dear Mr. Martin:

I correspond with you as the President of Crookston Pirate Boosters Club. I am responding to your communication dated August 4, 2021. The communication was received by me on August 19, 2021.

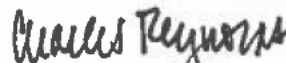
I inform you Crookston Pirate Boosters Club has not granted any authority to use or employ the name of Crookston Pirate Boosters Club with respect to the production or marketing of an item known as Minneschlagen. Crookston Pirate Boosters Club has no affiliation with the individuals or entity producing the Minneschlagen.

Crookston Pirate Boosters has no branding. The logo to which you refer is the logo of Independent School District No. 593, the Crookston School District. We have provided no materials or supplies, funds, or authorization to the individuals or entities producing the Minneschlagen. We are not a willful partner or even a knowing partner with respect to the Minneschlagen. We are not contributing to or endorsing the production of any item by the individuals or corporation producing the Minneschlagen. We do not endorse, authorize, or in any manner contribute to the activities of DAMM, LLC in any way.

Crookston Pirate Boosters Club is a nonprofit organization which receives donations from individuals to support Crookston High School Athletics. We did not and cannot authorize any branding as we have no brand. WE cannot and did not authorize the production of any items advertising solicitation or marketing by DAMM, LLC.

I thank you for your attention to this matter.

Very truly yours,



Charles W. Reynolds

CWR:hc

----- Forwarded message -----

From: **Hammer-Schlagen®** <[events@hammerschlagen.com](mailto:events@hammerschlagen.com)>

Date: Wed, Aug 18, 2021 at 5:51 PM

Subject: Re: Aug 21st

To: Ken Smith <[ken.smith@utepilsbrewing.com](mailto:ken.smith@utepilsbrewing.com)>

Ken-

I received information that Utepils may be counterfeiting our Hammer-Schlagen Stump, by way of materials and supplies obtained from DAMM, LLC of Plymouth, MN. We currently have them under cease and desist, and cooperation with them in their continued counterfeiting activities is likely to be met with federal litigation. This is because counterfeiting our three-dimensional Stump is unlawful and has already been enjoined by federal courts. See, in one example this past week, a news article <<https://tinyurl.com/v7h3tner>>.

If Utepils is counterfeiting our brand of entertainment at its establishment, please kindly stop.

-Jim

On 8/10/2021 6:03 PM, Hammer-Schlagen® wrote:

> Ken-

>

> I tried calling, but haven't heard back so figured I'd send a

> message. We had a cancellation on Aug 21 and I know you wanted

> Hammer-Schlagen® at your brewery that day. We can swing it, so wood

> you give me a ring to hammer out the details?

>

> -Jim

> 651-206-8663

# EXHIBIT G

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**Eastern District of Washington  
U.S. District Court (Spokane)  
CIVIL DOCKET FOR CASE #: 2:16-cv-00436-RMP**

WRB Inc v. Vision Marketing LLC et al  
Assigned to: Judge Rosanna Malouf Peterson  
Referred to: Magistrate Judge John T. Rodgers (Settlement)  
Cause: 15:1114 Trademark Infringement

Date Filed: 12/13/2016  
Date Terminated: 05/08/2018  
Jury Demand: Defendant  
Nature of Suit: 840 Trademark  
Jurisdiction: Federal Question

**Plaintiff**

**WRB Inc**  
*a Minnesota Corporation*

represented by **Ryan R McNeice**  
McNeice Wheeler PLLC  
11404 E Sprague Ave  
Spokane Valley, WA 99206  
509-928-4141  
Fax: 509-928-9166  
Email: ryan@mcneicewheeler.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Paul A Godfread**  
Godfread Law Firm PC  
6043 Hudson Road  
Suite 305  
Woodbury, MN 55125  
612-284-7325  
Fax: 612-465-3609  
Email: paul@godfreadlaw.com  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Robin Lynn Haynes**  
GIANTlegal PLLC  
304 W Pacific Avenue  
Suite 210  
Spokane, WA 99201  
509-596-1426  
Fax: 509-753-7226  
Email: robin@giantlegal.net  
*TERMINATED: 01/23/2018*

V.

**Defendant**

**Vision Marketing LLC**  
*a Washington LLC*

represented by **Bryana L Blessinger**  
Bullivant Houser Bailey - OR

888 SW Fifth Avenue  
Suite 300  
Portland, OR 97204-2089  
503-295-3085  
Fax: 503-323-9105  
Email:  
BryanaBlessinger@MarkowitzHerbold.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Geana Van Dessel**  
Kutak Rock LLP - Spokane  
510 W Riverside Avenue  
Suite 800  
Spokane, WA 99201  
509-747-4040  
Fax: 509-747-4545  
Email: Geana.VanDessel@kutakrock.com  
*TERMINATED: 02/17/2017*  
*ATTORNEY TO BE NOTICED*

**Laura C Caldera**  
Bullivant Houser Bailey - OR  
888 SW Fifth Avenue  
Suite 300  
Portland, OR 97204-2089  
503-499-4602  
Fax: 503-295-0915  
Email: laura.caldera@bullivant.com  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Oktoberfest at the River**  
*a Washington unregistered partnership*

represented by **Bryana L Blessinger**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Geana Van Dessel**  
(See above for address)  
*TERMINATED: 02/17/2017*  
*ATTORNEY TO BE NOTICED*

**Laura C Caldera**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Thomas Stebbins**  
*individually and on behalf of his marital community*

represented by **Bryana L Blessinger**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Geana Van Dessel**

(See above for address)

TERMINATED: 02/17/2017

ATTORNEY TO BE NOTICED

**Laura C Caldera**

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

**Defendant****Karen Stebbins***individually and on behalf of her marital  
community*represented by **Bryana L Blessinger**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

**Geana Van Dessel**

(See above for address)

TERMINATED: 02/17/2017

ATTORNEY TO BE NOTICED

**Laura C Caldera**

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/13/2016	<u>1</u>	COMPLAINT against Vision Marketing, LLC ( Filing fee \$ 400; Receipt # 0980-2499947) Filed by WRB, Inc.. (Attachments: # <u>1</u> Civil Cover Sheet)(Haynes, Robin) (Entered: 12/13/2016)
12/13/2016		Notice of Judge Assignment. Judge Rosanna Malouf Peterson assigned to case. (AY, Case Administrator) (Entered: 12/13/2016)
12/13/2016	<u>4</u>	Summons Issued as to Karen Stebbins, Thomas Stebbins. (Attachments: # <u>1</u> Summons Thomas Stebbins)(AY, Case Administrator) (Entered: 12/13/2016)
12/13/2016	<u>5</u>	Report on the filing or determination of an action involving a trademark. (AY, Case Administrator) (Entered: 12/13/2016)
12/15/2016	<u>8</u>	Summons Issued as to Oktoberfest at the River, Karen Stebbins, Thomas Stebbins, Vision Marketing LLC. (Attachments: # <u>1</u> Summons)(RG, Ops Supervisor) (Entered: 12/15/2016)
12/30/2016	<u>9</u>	NOTICE of Appearance by Geana Van Dessel on behalf of All Defendants (Attorney Geana Van Dessel added to party Oktoberfest at the River(pty:dft), Attorney Geana Van Dessel added to party Karen Stebbins(pty:dft), Attorney Geana Van Dessel added to party Thomas Stebbins(pty:dft), Attorney Geana Van Dessel added to party Vision Marketing LLC(pty:dft))(Van Dessel, Geana) (Entered: 12/30/2016)
02/13/2017	<u>10</u>	NOTICE of Change of Address by Robin Lynn Haynes (Haynes, Robin) (Entered: 02/13/2017)
02/17/2017	<u>11</u>	NOTICE OF WITHDRAWAL AND SUBSTITUTION OF COUNSEL on behalf of Defendants Oktoberfest at the River, Karen Stebbins, Thomas Stebbins, Vision Marketing LLC. Attorney Geana M. Van Dessel is withdrawing. Bryana L Blessinger is substituted as

		counsel for Defendants. (Attorney Bryana L Blessinger added to party Oktoberfest at the River(pty:dft), Attorney Bryana L Blessinger added to party Karen Stebbins(pty:dft), Attorney Bryana L Blessinger added to party Thomas Stebbins(pty:dft), Attorney Bryana L Blessinger added to party Vision Marketing LLC(pty:dft))(Blessinger, Bryana) (Entered: 02/17/2017)
02/17/2017	<u>12</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint by All Defendants. Motion Hearing set for 3/20/2017 Without Oral Argument before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Blessinger, Bryana) (Entered: 02/17/2017)
02/17/2017	<u>13</u>	MOTION to Appear Pro Hac Vice re Attorney: Laura Caldera Taylor. Filing fee \$ 200, receipt number 0980-2548328. by All Defendants. Motion Hearing set for 3/20/2017 Without Oral Argument before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Blessinger, Bryana) (Entered: 02/17/2017)
02/21/2017	<u>14</u>	TEXT-ONLY ORDER (no PDF will issue) granting ECF No. <u>13</u> , Motion for Leave to Appear Pro Hac Vice. Attorney Laura Caldera Taylor, having applied for pro hac vice status and being found to meet the requirements for pro hac vice membership, is hereby added as counsel for all Defendants. This text-only entry constitutes the Court's ruling on the matter. Signed by Judge Rosanna Malouf Peterson. (MS, Judicial Assistant) (Entered: 02/21/2017)
02/22/2017	<u>15</u>	TEXT-ONLY ORDER (no PDF will issue) granting, for good cause shown, ECF No. <u>12</u> , Defendants' Unopposed Motion for Additional Time to Answer or Otherwise Appear. Defendants shall file an Answer or otherwise respond on or before March 3, 2017. This text-only entry constitutes the Court's ruling on the matter. Signed by Judge Rosanna Malouf Peterson. (MS, Judicial Assistant) (Entered: 02/22/2017)
03/03/2017	<u>16</u>	<i>Defendants'</i> ANSWER to Complaint with jury demand. by All Defendants.(Caldera Taylor, Laura) (Entered: 03/03/2017)
03/06/2017	<u>17</u>	SCHEDULING CONFERENCE NOTICE : Telephonic Scheduling Conference set for <b>4/11/2017 at 09:30 AM</b> in Telephonic Argument before Judge Rosanna Malouf Peterson. (MF, Courtroom Deputy) (Entered: 03/06/2017)
03/27/2017	<u>18</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT by WRB Inc. (Haynes, Robin) (Entered: 03/27/2017)
04/03/2017	<u>19</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT by Vision Marketing LLC. (Caldera Taylor, Laura) (Entered: 04/03/2017)
04/03/2017	<u>20</u>	Joint Certificate Pursuant to LR 26.1 / LR 16.1 by WRB Inc. (Haynes, Robin) (Entered: 04/03/2017)
04/11/2017	<u>21</u>	Minute Entry for TELEPHONIC proceedings held before Judge Rosanna Malouf Peterson: Scheduling Conference held on 4/11/2017. (Reported by: Ronelle F. Corbey) (VR, Courtroom Deputy) (Entered: 04/11/2017)
04/11/2017	<u>22</u>	MOTION to Appear Pro Hac Vice re Attorney: Paul Godfread. Filing fee \$ 200, receipt number 0980-2585507. by WRB Inc. Motion Hearing set for 5/11/2017 Without Oral Argument before Judge Rosanna Malouf Peterson. (Haynes, Robin) (Entered: 04/11/2017)
04/11/2017	<u>23</u>	JURY TRIAL SCHEDULING ORDER: Telephonic Status Conference set for 2/20/2018 09:30 AM in Telephonic Argument before Judge Rosanna Malouf Peterson. In-Person Pretrial Conference set for 6/26/2018 at 09:30 AM in Spokane Courtroom 901 before Judge Rosanna Malouf Peterson. Jury Trial set for 7/9/2018 at 09:00 AM in Spokane Courtroom 901 before Judge Rosanna Malouf Peterson. Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 04/11/2017)



04/13/2017	<u>24</u>	TEXT-ONLY ORDER (no PDF will issue) granting ECF No. <u>22</u> , Motion for Leave to Appear Pro Hac Vice. Attorney Paul Godfread, having applied for pro hac vice status and being found to meet the requirements for pro hac vice membership, is hereby added as counsel for Plaintiff WRB, Inc. This text-only entry constitutes the Court's ruling on the matter. Signed by Judge Rosanna Malouf Peterson. (MS, Judicial Assistant) (Entered: 04/13/2017)
10/04/2017	<u>25</u>	Stipulated MOTION for Extension of Time to Complete Discovery by All Defendants. Motion Hearing set for 10/4/2017 Without Oral Argument before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Blessinger, Bryana) (Entered: 10/04/2017)
10/25/2017	<u>26</u>	MOTION to Compel <i>Production</i> by All Defendants. Motion Hearing set for 11/27/2017 at 10:30 AM Spokane Courtroom 901 Teleconference before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Caldera Taylor, Laura) (Entered: 10/25/2017)
10/25/2017	<u>27</u>	DECLARATION by Laura Caldera Taylor in Support re <u>26</u> MOTION to Compel <i>Production</i> filed by All Defendants. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G)(Caldera Taylor, Laura) (Entered: 10/25/2017)
10/25/2017	<u>28</u>	MOTION to Compel <i>30(b)(6) Deposition</i> by All Defendants. Motion Hearing set for 11/27/2017 at 10:30 AM Spokane Courtroom 901 Teleconference before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Caldera Taylor, Laura) (Entered: 10/25/2017)
10/25/2017	<u>29</u>	DECLARATION by Laura Caldera Taylor in Support re <u>28</u> MOTION to Compel <i>30(b)(6) Deposition</i> filed by All Defendants. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Caldera Taylor, Laura) (Entered: 10/25/2017)
10/26/2017	<u>30</u>	Praecipe filed by All Defendants : Re <u>26</u> MOTION to Compel <i>Production</i> . Description: Added local counsel signature to motion.. (Blessinger, Bryana) (Entered: 10/26/2017)
10/26/2017	<u>31</u>	Praecipe filed by All Defendants : Re <u>28</u> MOTION to Compel <i>30(b)(6) Deposition</i> . Description: Added local counsel signature to motion.. (Blessinger, Bryana) (Entered: 10/26/2017)
11/08/2017	<u>32</u>	Stipulated MOTION for Extension of Time to Complete Discovery by All Defendants. Motion Hearing set for 12/11/2017 Without Oral Argument before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Blessinger, Bryana) (Entered: 11/08/2017)
11/08/2017	<u>33</u>	MOTION to Expedite by All Defendants. Motion Hearing set for 11/17/2017 Without Oral Argument before Judge Rosanna Malouf Peterson. (Blessinger, Bryana) (Entered: 11/08/2017)
11/08/2017	<u>34</u>	DECLARATION by Laura Caldera Taylor in Support re <u>33</u> MOTION to Expedite filed by All Defendants. (Blessinger, Bryana) (Entered: 11/08/2017)
11/14/2017	<u>35</u>	Praecipe filed by WRB Inc: Re <u>32</u> Stipulated MOTION for Extension of Time to Complete Discovery . Description: Local Counsel Signature. (Attachments: # <u>1</u> Exhibit Signature Page)(Haynes, Robin) (Entered: 11/14/2017)
11/16/2017	<u>36</u>	ORDER granting <u>32</u> Joint Motion to Extend Discovery Deadlines; and granting <u>33</u> Defendants' Motion to Expedite. Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 11/16/2017)

11/27/2017	<u>37</u>	Minute Entry for TELEPHONIC proceedings held before Judge Rosanna Malouf Peterson: Motion Hearing held on 11/27/2017 re <u>26</u> MOTION to Compel <i>Production</i> filed by Thomas Stebbins, Karen Stebbins, Oktoberfest at the River, Vision Marketing LLC, <u>28</u> MOTION to Compel <i>30(b)(6) Deposition</i> filed by Thomas Stebbins, Karen Stebbins, Oktoberfest at the River, Vision Marketing LLC. (Reported/Recorded by: Allison R. Stovall) (MF, Courtroom Deputy) (Entered: 11/27/2017)
11/27/2017	<u>38</u>	ORDER GRANTING DEFENDANTS' <u>26</u> Motion to Compel Production and <u>28</u> Motion to Compel <i>30(b)(6) Deposition</i> . Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 11/27/2017)
01/09/2018	<u>39</u>	MOTION for Sanctions by All Defendants. Motion Hearing set for <b>3/1/2018 at 11:00 AM</b> before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order) (Blessinger, Bryana) (Entered: 01/09/2018)
01/09/2018	<u>40</u>	DECLARATION by Laura Caldera Taylor in Support re <u>39</u> MOTION for Sanctions filed by All Defendants. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N, # <u>15</u> Exhibit O, # <u>16</u> Exhibit P, # <u>17</u> Exhibit Q, # <u>18</u> Exhibit R)(Blessinger, Bryana) (Entered: 01/09/2018)
01/09/2018	<u>41</u>	MOTION to Expedite by All Defendants. Motion Hearing set for <b>1/16/2018 at 6:30 PM</b> Without Oral Argument before Judge Rosanna Malouf Peterson. (Blessinger, Bryana) (Entered: 01/09/2018)
01/09/2018	<u>42</u>	DECLARATION by Laura Caldera Taylor in Support re <u>41</u> MOTION to Expedite filed by All Defendants. (Blessinger, Bryana) (Entered: 01/09/2018)
01/10/2018	<u>43</u>	MOTION for Extension of Time to Complete Discovery by All Defendants. Motion Hearing set for <b>2/12/2018 at 6:30 PM</b> Without Oral Argument before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Blessinger, Bryana) (Entered: 01/10/2018)
01/10/2018	<u>44</u>	DECLARATION by Laura Caldera Taylor in Support re <u>43</u> MOTION for Extension of Time to Complete Discovery filed by All Defendants. (Blessinger, Bryana) (Entered: 01/10/2018)
01/10/2018	<u>45</u>	MOTION to Expedite by All Defendants. Motion Hearing set for <b>1/17/2018 at 6:30 PM</b> Without Oral Argument before Judge Rosanna Malouf Peterson. (Blessinger, Bryana) (Entered: 01/10/2018)
01/10/2018	<u>46</u>	DECLARATION by Laura Caldera Taylor in Support re <u>45</u> MOTION to Expedite filed by All Defendants. (Blessinger, Bryana) (Entered: 01/10/2018)
01/11/2018	<u>47</u>	TEXT-ONLY ORDER (no PDF will issue) granting, for good cause shown, Defendants' Motion to Expedite, ECF No. <u>41</u> , the Motion for Sanctions, ECF No. <u>39</u> . Plaintiff shall respond to Defendants' Motion for Sanctions on or before January 24, 2018. Defendants shall reply on or before January 31, 2018. The Court shall hear Defendants' Motion for Sanctions on February 7, 2018, without oral argument. This text-only entry constitutes the Court's ruling on the matter. Signed by Judge Rosanna Malouf Peterson. (MS, Judicial Assistant) Modified on 1/11/2018 to correct docket text. (MS, Judicial Assistant). (Entered: 01/11/2018)
01/11/2018	<u>48</u>	NOTICE of Change of Hearing Date (text-only entry; no PDF will issue) re ECF No. <u>39</u> MOTION for Sanctions : Motion Hearing reset for <b>2/7/2018 at 06:30 PM</b> without oral argument before Judge Rosanna Malouf Peterson. (MS, Judicial Assistant) (Entered: 01/11/2018)
01/11/2018	<u>49</u>	ORDER granting <u>43</u> Motion for Extension of Discovery Deadlines; granting <u>45</u> Motion to

		Expedite. Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 01/11/2018)
01/23/2018	<u>50</u>	MOTION to Substitute Attorney by WRB Inc. Motion Hearing set for <b>2/23/2018 at 6:30 PM</b> Without Oral Argument before Judge Rosanna Malouf Peterson. (McNeice, Ryan) (Entered: 01/23/2018)
01/23/2018	<u>51</u>	ORDER granting <u>50</u> Unopposed Motion for Withdrawal and Substitution of Local Counsel. Attorney Robin Lynn Haynes and GIANLegal PLLC terminated as counsel. Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 01/23/2018)
01/24/2018	<u>52</u>	MEMORANDUM in Opposition re <u>39</u> MOTION for Sanctions filed by WRB Inc. (McNeice, Ryan) (Entered: 01/24/2018)
01/24/2018	<u>53</u>	DECLARATION by Paul Godfread in Opposition re <u>39</u> MOTION for Sanctions filed by WRB Inc. (Attachments: # <u>1</u> Exhibit Agreement between parties, # <u>2</u> Exhibit Affidavits produced in discovery, # <u>3</u> Exhibit Amended Initial Disclosures, # <u>4</u> Exhibit Amended Document Request Response)(McNeice, Ryan) (Entered: 01/24/2018)
01/24/2018	<u>54</u>	DECLARATION by Jim Martin in Opposition re <u>39</u> MOTION for Sanctions filed by WRB Inc. (McNeice, Ryan) (Entered: 01/24/2018)
01/31/2018	<u>55</u>	REPLY MEMORANDUM re <u>39</u> MOTION for Sanctions filed by All Defendants. (Blessinger, Bryana) (Entered: 01/31/2018)
01/31/2018	<u>56</u>	DECLARATION by Laura Caldera Taylor in Support re <u>39</u> MOTION for Sanctions filed by All Defendants. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5)(Blessinger, Bryana) (Entered: 01/31/2018)
02/15/2018	<u>57</u>	STATUS REPORT <i>Settlement Status Certificate</i> by All Defendants. (Blessinger, Bryana) (Entered: 02/15/2018)
02/15/2018	58	NOTICE of Cancellation of Hearing. Telephonic Status Conference set for February 20, 2018, at 9:30 AM is cancelled. See the parties' Joint Status Report at ECF No. <u>57</u> . (MS, Judicial Assistant) (Entered: 02/15/2018)
02/23/2018	<u>59</u>	ORDER GRANTING IN PART <u>39</u> Defendants' Motion for Sanctions. Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 02/23/2018)
03/09/2018	<u>60</u>	NOTICE by All Defendants <i>of pro hac vice counsel name change</i> (Blessinger, Bryana) (Entered: 03/09/2018)
03/09/2018	<u>61</u>	MOTION for Attorney Fees <i>and Costs</i> by All Defendants. Motion Hearing set for <b>4/9/2018</b> Without Oral Argument before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Blessinger, Bryana) (Entered: 03/09/2018)
03/09/2018	<u>62</u>	DECLARATION by Laura Caldera in Support re <u>61</u> MOTION for Attorney Fees <i>and Costs</i> filed by All Defendants. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9) (Blessinger, Bryana) (Entered: 03/09/2018)
03/20/2018	<u>63</u>	ORDER REFERRING CASE to Magistrate Judge John T. Rodgers for Settlement Conference. Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 03/20/2018)
03/22/2018	64	SCHEDULING CONFERENCE NOTICE - Text entry; no PDF document: Telephonic Scheduling Conference set for <b>4/4/2018 at 9:00 AM</b> before Magistrate Judge John T. Rodgers. <u>Counsel shall be prepared to discuss possible dates for a settlement conference.</u>

		<b>Counsel are directed to initiate the call to Magistrate Judge Rodgers at (888) 363-4749 Access Code: 6822266.</b> (MO, Courtroom Deputy) (Entered: 03/22/2018)
03/27/2018	<u>65</u>	MOTION for Extension of Time to Complete Discovery by All Defendants. Motion Hearing set for <b>4/27/2018</b> Without Oral Argument before Judge Rosanna Malouf Peterson. (Attachments: # <u>1</u> Text of Proposed Order)(Blessinger, Bryana) (Entered: 03/27/2018)
03/27/2018	<u>66</u>	DECLARATION by Laura Caldera in Support re <u>65</u> MOTION for Extension of Time to Complete Discovery filed by All Defendants. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2) (Blessinger, Bryana) (Entered: 03/27/2018)
03/30/2018	<u>67</u>	REPLY MEMORANDUM re <u>61</u> MOTION for Attorney Fees <i>and Costs</i> filed by All Defendants. (Blessinger, Bryana) (Entered: 03/30/2018)
03/30/2018	<u>68</u>	DECLARATION by Laura Caldera in Support re <u>61</u> MOTION for Attorney Fees <i>and Costs</i> filed by All Defendants. (Attachments: # <u>1</u> Exhibit 1 - Order Granting in Part Defendants' Motion for Sanctions <u>59</u> , # <u>2</u> Exhibit 2 - Telephonic Motion Hearing Civil Minutes [ECF 37], # <u>3</u> Exhibit 3 - Plaintiff's Response to Defendants' Motion to Compel and Supporting Declaration [ECF 52, ECF 53], # <u>4</u> Exhibit 4 - License Agreements) (Blessinger, Bryana) (Entered: 03/30/2018)
04/04/2018	<u>69</u>	Minute Entry for TELEPHONIC proceedings held before Magistrate Judge John T. Rodgers: Scheduling Conference held on 4/4/2018. (Reported/Recorded by: Not Reported) (MO, Courtroom Deputy) (Entered: 04/04/2018)
04/05/2018	<u>70</u>	ORDER Setting Settlement Conference: --ACTION REQUIRED-- Confidential written offer of settlement ddl 4/23/18. Confidential <i>In camera</i> submission ddl 5/1/18. SEE attached PDF of Order. Settlement Conference set for <b>5/16/2018 09:00 AM</b> in Spokane Suite 740 before Magistrate Judge John T. Rodgers. Signed by Magistrate Judge John T. Rodgers. (VR, Courtroom Deputy) (Entered: 04/05/2018)
04/18/2018	<u>71</u>	ORDER GRANTING <u>65</u> Defendants' Unopposed MOTION for Extension of Time to Complete Discovery filed by Thomas Stebbins, Karen Stebbins, Oktoberfest at the River, Vision Marketing LLC. Jury Trial Scheduling Order, <u>23</u> is vacated. Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 04/18/2018)
04/20/2018	<u>72</u>	ORDER AWARDING FEES AND COSTS; granting in part <u>61</u> Motion for Attorney Fees and Costs. Signed by Judge Rosanna Malouf Peterson. (CV, Case Administrator) (Entered: 04/20/2018)
05/07/2018	<u>73</u>	STIPULATION of Dismissal <i>With Prejudice</i> by WRB Inc. (McNeice, Ryan) (Entered: 05/07/2018)
05/08/2018	<u>74</u>	ORDER OF DISMISSAL WITH PREJUDICE. APPROVING parties' <u>73</u> Stipulation of Dismissal with Prejudice. Case Closed. Signed by Judge Rosanna Malouf Peterson. (SK, Case Administrator) (Entered: 05/08/2018)
05/08/2018	<u>75</u>	JUDGMENT. (SK, Case Administrator) (Entered: 05/08/2018)

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